

1 this settlement makes public policy sense.

2 As we see it, the settlement has
3 three principal components. First, the UNE rate
4 decision ensures that competition largely
5 relying on the UNE platform but also grounded in
6 UNE loops is stabilized and prepped for growth
7 for at least the next two years. This was
8 critical. Staff in its supporting testimony
9 stresses that it could not have entered into the
10 settlement without a reasoned confidence that
11 the new UNE rates would permit effective retail
12 competition in all local markets. To generate
13 that confidence, staff performed not a cost
14 analysis -- that was done in the rate case --
15 but a margin analysis. From that analysis it
16 concluded that retail price competition based on
17 UNEs could act as an effective alternative to
18 retail rate regulation.

19 We think staff is correct. AT&T,
20 for one, believes that with the UNE rate
21 decision and the settlement, it can compete
22 aggressively across the broad spectrum of the
23 local market. It would be inappropriate to
24 signal our competitive plans here, but I can say
25 that we intend to be a force in the New York

1 market for some time to come, to compete in the
2 short term and to invest for the long.

3 The second major component of the
4 settlement is the grant of increased retail rate
5 flexibility to Verizon. This is, in some sense,
6 none of our business. However, from an
7 analytical perspective, the trade-off is exactly
8 correct. The transition from monopoly to
9 competitive conditions should always include a
10 transition from regulated pricing to market-
11 driven pricing. We believe the current
12 conditions will support price competition, and
13 thus we think the timing of this decision,
14 including both the pricing freedom and the
15 residual controls that staff proposes, is
16 correct; and here staff also balances its pro-
17 competitive vision with fairness to Verizon. If
18 Verizon is to be forced to accept conditions
19 that will subject it to genuine competition, it
20 should also get the benefits of being a
21 competitor in a competitive market. Thus, the
22 settlement is not neutral, but it is fair.

23 Finally, the third major piece of
24 the puzzle is the requirement that Verizon
25 participate in the workshops as the settlement

1 begins to enhance facilities-based competition.

2 The inclusion of these workshops
3 in the settlement agreement is critically
4 important. We can have no illusions here. As
5 accomplished and sophisticated as we have become
6 in managing UNE-P transactions, that is how
7 primitive we are in managing facilities-based
8 competition that relies on the UNE loop.
9 Verizon itself confirmed this when it insisted
10 that its processes for performing hot cuts cost
11 it nearly \$200 each. What this means is simply
12 that Verizon doesn't have a commercially viable
13 procedure for performing hot cuts.

14 The settlement includes Verizon's
15 agreement to charge \$35 per hot cut for the next
16 two years, notwithstanding the claimed cost of
17 185. But this is a Band-Aid, not a solution.
18 We don't think Verizon's actual costs for
19 performing hot cuts are anywhere near \$185, but
20 we do think that their processes are slow,
21 unduly labor-intensive and, as an inevitable
22 result, not commercially viable in mass market
23 quantities.

24 Verizon has insisted throughout
25 this proceeding that the ultimate objective of

1 this Commission is to promote what it calls
2 "facilities-based competition" by which it
3 presumably means competition based on the UNE
4 loop. We have a little of that kind of
5 competition, but very little. Verizon projects
6 that it will perform perhaps 150,000 hot cuts in
7 a year. By comparison, in the UNE-P market, a
8 single firm can place that many orders in a
9 month. If we are to evolve to a market where
10 UNE loop competition is as effective and
11 ubiquitous as UNE-P competition, we will need
12 hot cut processes for converting customers from
13 one carrier to another that are as efficient and
14 as cost-effective as the processes that we have
15 for converting customers using UNE-P.

16 We believe that UNE-L competition
17 should be thought of not as a replacement for
18 UNE-P competition but rather as an alternative.
19 Resale competition has a permanent role to play
20 in the local market, just as it does in the long
21 distance market. It is worth noting in this
22 regard that the largest long distance carrier in
23 New York State is an upstart reseller called
24 Verizon Long Distance, and they would be the
25 first to tell you how much the public benefits

1 from their presence in that market. Similarly,
2 local competition based on UNE-P should be
3 viewed as a valuable permanent part of the local
4 competitive landscape. That does not mean that
5 we should not also promote facilities-based
6 competition based on UNE-L.

7 Verizon has often argued that the
8 way to promote UNE-L competition is by
9 discouraging UNE-P competition. This is exactly
10 backwards. Instead of making UNE-P competition
11 less attractive and less cost-effective, the
12 objective must be to make UNE-L competition more
13 attractive and more cost-effective. AT&T is
14 investing heavily in switches in New York. Our
15 investment will not be deterred by having an
16 attractive UNE-P platform on which to build. It
17 will be deterred by the threat that UNE-L
18 transactions cannot be accomplished in an
19 efficient and cost-effective way.

20 The settlement's workshops offer
21 a process for moving towards that goal and the
22 most important but far from the only step we
23 will need to take in this proceeding is a
24 fundamental review and revision of the hot cut
25 process. AT&T believes this will involve two

1 stages. The first will look for and implement
2 the most efficient processing we can design for
3 performing hot cuts given the network now in
4 place. The second will look farther down the
5 road at how we can redesign the network so that
6 it performs hot cuts as seamlessly and
7 efficiently as it performs UNE-P transactions
8 or, for that matter, as seamlessly as it
9 performs long distance PIC changes.

10 There are other important steps
11 contemplated by this settlement and they too are
12 necessary if we are to have facilities-based
13 competition. We need a method for offsetting
14 the enormous historic advantage Verizon has over
15 its competitors with respect to the building
16 access. We also need to stop Verizon's
17 persistent discrimination in the provisioning of
18 T1 circuits. The settlement proposes that all
19 of these issues be addressed as well.

20 I don't want to suggest that the
21 settlement is perfect. It is not. Its greatest
22 shortcoming is it is term. Two years is too
23 short. We will not finish the work we need to
24 undertake to make facilities-based competition
25 as efficient as UNE-P competition in that time,

1 which means our next review of how Verizon
2 should be regulated and what competitive
3 conditions should be maintained in the market
4 will be premature.

5 There are also a number of other
6 critical matters of concern that are simply left
7 out of the settlement: DSL provisioning and a
8 comprehensive review of collocation arrangements
9 and costs are the most obvious, although the
10 latter might be well be built into the work-
11 shops. Still nothing in the settlement con-
12 strains the Commission from conducting other
13 proceedings and issuing other rules as needs be
14 to promote competition.

15 In sum, the settlement has three
16 components: A set of rules and rates that makes
17 UNE-P effective on a mass market basis and UNE-L
18 effective on a selective basis; rate flexibility
19 for Verizon consistent with the competition that
20 UNE-P brings; and a series of workshops to bring
21 UNE-L and other facilities-based forms of
22 competition up to the same standards of
23 performance that UNE-P already has achieved.
24 That is a coherent pro-competitive and pro-
25 consumer settlement agreement, and we support it

1 fully.

2 Like Sisyphus, we have been
3 pushing a large rock up a steep hill; but unlike
4 that poor bedeviled man, we have reached a
5 plateau where we can rest briefly, rekindle our
6 strength and review our progress. There is an
7 equally steep hill to climb before we reach the
8 pinnacle where local competition is as firmly
9 entrenched as long distance competition is
10 today, but we need not go back to the bottom.
11 Having come this far, we should be able to
12 complete the rest of the climb.

13 Finally, Madam Chairman, a
14 personal note. There is a segment of American
15 society that views government, and by
16 implication those who work in it, with suspicion
17 if not outright hostility, as a foreign or at
18 best parasitic body in our culture. I beg very
19 much to differ. Government is merely ourselves
20 doing collectively that which we cannot do
21 individually and which market forces will not do
22 for us. Government mostly comes to the public's
23 attention when it has failed. As a result, its
24 successes and hence its value is seldom fully
25 appreciated.

1 This settlement happened only
2 because of the extraordinary work of the
3 Commission's staff and judges. My experience
4 here and throughout the past six years reminds
5 me that the term "civil servant" is and ought to
6 be a term of distinction. It is a privilege to
7 work here. With this rate decision and this
8 settlement, New York has proven that in capable
9 hands the Telecommunications Act of 1996 is a
10 viable and valuable piece of legislation.
11 Paraphrasing the words of Mark Twain, rumors of
12 the demise of the Act are greatly exaggerated
13 and, as a result, local telephone competition is
14 alive and well and living in New York.

15 Thank you.

16 MS. HELMER: I do have one
17 question, Mr. Davidow. I have several but I'll
18 leave some of them until later. The Commission
19 obviously is going to be very concerned in
20 analyzing this settlement as to what the state
21 of competition will be, what the prospects for
22 competition will be, as it's interested in
23 everything about the small providers and large
24 providers and, as one of the representatives of
25 what I would describe as the large providers of

1 competition, I appreciate the fact that you may
2 not want to describe in detail business plans
3 that your company may have for the future of New
4 York, but is there anything more that you can
5 offer to the Commission besides "trust me" in
6 terms of what AT&T sees for the landscape in New
7 York State?

8 MR. DAVIDOW: Well, in terms of I
9 start out with my background as an anti-trust
10 lawyer and a recognition that AT&T is the second
11 largest local exchange carrier in the state and
12 with lines, and the largest direct competitor of
13 Verizon, and if I were to make announcements of
14 future pricing plans, my friend would probably
15 subpoena me.

16 MS. HELMER: No, but would you be
17 willing to provide some more detail in private
18 discussions with Commission staff or
19 Commissioners?

20 MR. DAVIDOW: We would be pleased
21 to do so, yes.

22 MS. HELMER: O.K. Thank you.

23 MS. LEE: Thank you, Mr.

24 Davidow.

25 Our next closing statement will

1 be Mr. Groves from WorldCom.

2 MR. GROVES: Thank you, Madam
3 Chairman and Judge Lee, and good morning. Still
4 morning, isn't it? I'm Curtis Groves, Senior
5 Attorney for WorldCom.

6 Thank you for the opportunity to
7 express today in this public forum WorldCom's
8 support for the Joint Proposal to create a new
9 regulatory plan for Verizon.

10 As the department staff's
11 testimony correctly explains, this Commission
12 has been a pro-competitive leader for many
13 years. It is the standard by which other
14 regulatory agencies are often judged, and you
15 should continue to be proud of that. This is
16 the first Commission to open its local markets
17 to competition, and the Commission's work has
18 not stopped there.

19 With the UNE rate decision that
20 the Commission adopted last month, the
21 Commission took another important step toward
22 ensuring the viability of local competition in
23 New York. Today WorldCom joins a number of
24 parties in asking the Commission to take a
25 second such step by approval of the Joint

1 Proposal and, at the onset, I want to join my
2 colleagues in offering on behalf of WorldCom my
3 praise for the extraordinary efforts of the
4 Department of Public Service staff and the three
5 Administrative Law Judges in negotiating this
6 plan which brought together such a wide range of
7 issues and competing interests.

8 Though Verizon's Incentive Plan
9 is primarily a plan to regulate Verizon's retail
10 operations, the premise underlying the proposed
11 plan is that, as a result of this commission's
12 pro-competitive policies, the competitive market
13 forces will begin to dictate retail pricing
14 decisions and that the Commission's role as
15 regulator of retail services can be lessened.
16 Of course, the Commission would retain all its
17 regulatory authority, but whereas government
18 regulation has for so long been a surrogate for
19 competition, the plan envisions a day where
20 competition is strong enough so that the
21 commission's regulatory oversight of retail
22 rates is no longer needed in such strong force.

23 For competition to flourish in
24 the manner that the plan envisions, certain new
25 pro-competitive initiatives are needed, and this

1 Joint Proposal recognizes that fact.

2 As we mentioned in our written
3 statement, in support of the Joint Proposal, we
4 believe the proposed plan could have been
5 stronger in some respects, but we expect that
6 proceedings before this Commission and before
7 the Federal Communications Commission will
8 address those issues, including the development
9 and to approve the variety of service that
10 Verizon provides its customers. Overall, the
11 UNE rate decision, hence this proposed plan,
12 will permit WorldCom's MCI Group the opportunity
13 to market its local service offering to New York
14 consumers statewide which, under previous
15 regulatory conditions in New York, we were
16 unable to do.

17 And just as the Commission's work
18 did not stop with the 271 process, its work will
19 continue after this plan is approved through the
20 task forces created by the plan and through
21 other Commission proceedings. We look forward
22 to being a competitor in the New York market for
23 a long time to come, and we look forward to
24 continuing to work with the Commission's able
25 staff to do our part to make sure that the

1 competitive marketplace envisioned by the plan
2 comes to fruition.

3 That's all I have to say.

4 MS. LEE: Thank you.

5 MS. HELMER: And let me just
6 follow up with the same question. Would you be
7 willing to provide more detail about your future
8 plans for competition in the state privately to
9 Commission staff or to Commissioners?

10 MR. GROVES: Madam Chairman, we'd
11 be very pleased to do so.

12 MS. HELMER: Thank you.

13 MS. LEE: Thank you.

14 The next closing statement is Mr.
15 FitzGerald on behalf of Focal.

16 MR. FITZGERALD: Good afternoon,
17 Chairman Helmer, your Honor. My name is Brian
18 FitzGerald. I'm a partner with the law firm of
19 LeBoeuf, Lamb, Greene & MacRae, and I'm
20 appearing here today on behalf of three
21 parties: Allegiance Telecom of New York, Inc.,
22 Focal Communications Corporation of New York and
23 Time Warner Communications of New York, L.P.
24 Allegiance, Focal and Time Warner are primarily
25 facilities-based competitive telecommunications

1 service providers.

2 Before I discuss the plan, I'd
3 like to join the other parties with a heartfelt
4 thank you to the Department of Public Service
5 staff and to Law Judges Eleanor Stein and Jaclyn
6 Brilling for their hard work and dedication in
7 facilitating the arduous negotiations that
8 underlie the Joint Proposal in this case. I
9 think that their efforts collectively made this
10 Joint Proposal a reality.

11 While my clients each executed
12 the Joint Proposal and support its adoption by
13 the Commission in the proceeding, their support
14 must be viewed in context. The Joint Proposal
15 is a negotiated outcome. It does not represent
16 an ideal result. Rather the Joint Proposal
17 represents significant compromises by many
18 parties with widely divergent interests. It
19 nonetheless appears fair, adequate and to be in
20 the public interest.

21 Having said that, certain aspects
22 of the Joint Proposal are very important to
23 Allegiance, Focal and Time Warner, and I'd like
24 to briefly highlight them for you.

25 These issues are hot cut rates,

1 the treatment of reciprocal compensation and the
2 continued commitment on the part of the
3 Commission and Verizon to policies that favor
4 facilities-based competition.

5 Regarding hot cut rates, the
6 Joint Proposal would reduce the cost to switch
7 customers from Verizon's switch to a CLEC's
8 switch from what we believe to be unjustified
9 \$185 rate down to a more manageable \$35 rate.
10 As staff correctly recognizes in its testimony,
11 the \$185 rate would have "at best stalled CLEC
12 entry, and at worse reversed it." We believe
13 that staff's testimony understates the severe
14 harm that a \$185 non-recurring hot cut rate
15 would cause facilities-based competitive
16 providers of local telephone service.
17 Fortunately, under the Joint Proposal no
18 competitor provider will ever pay the \$185
19 rate.

20 Allegiance, Focal and Time Warner
21 fully support Staff's recommendation that the
22 process and cost of performing hot cuts be
23 comprehensively analyzed prior to the expiration
24 of the Joint Proposal. In fact, they look
25 forward to actively participating in the hot cut

1 evaluation process.

2 Turning now to my second issue of
3 reciprocal compensation, the possibility that
4 Verizon would seek retroactive payment or
5 reciprocal compensation from competitive local
6 exchange carriers is eliminated by the Joint
7 Proposal. This aspect of the Joint Proposal is
8 essential because the possibility of CLECs
9 having to refund money to Verizon based on
10 Verizon's own misstatements regarding switching
11 costs is certainly not palatable. This approach
12 also has the advantage of maintaining stability
13 in the industry.

14 Regarding facilities-based
15 competition and as a representative of
16 facilities-based providers, while this
17 Commission has consistently been a leader in
18 promoting telecommunications competition,
19 Allegiance, Focal and Time Warner believe that
20 the Joint Proposal places much focus on the
21 needs of to of carriers utilizing the Unbundled
22 Network Element Platform -- the UNE-P -- to
23 serve customers. UNE-P strategies, by
24 definition, rely solely on Verizon's net- work.
25 Accordingly, if this Commission is to meet its

1 long held goal of encouraging the development of
2 a fully redundant statewide communications
3 network, it must continue to be vigilant in its
4 commitment to facilities-based competition. At
5 a minimum, ensuring the proper functioning of
6 the Competitive Enhancement Task Forces, which
7 were negotiated as part of the Joint Proposal,
8 represented an important step in that
9 direction. The Competitive Enhancement Task
10 Force was intended by the parties to address
11 various long standing hurdoes such as billing
12 and collection, building access and efficient
13 provisioning of standard or combined extended
14 loops or EELs.

15 True facilities-based competition
16 will only flourish in New York State if these
17 issues, along with interconnection and other
18 bottleneck issues are resolved. We will
19 actively support the staff's and the parties'
20 working on the Competitive Enhancement Task
21 Force and look forward to them resolving these
22 difficult issues.

23 In conclusion, Allegiance, Focal
24 and Time Warner support the Joint Proposal as an
25 acceptable negotiated outcome and urge that it

1 be adopted by the Commission.

2 Thank you for the opportunity to
3 present these comments.

4 MS. LEE: Thank you, Mr. Fitz-
5 Gerald.

6 The next statement will be from
7 Mr. Davis, I guess? Mr. Davis.

8 MR. DAVIS: Don Davis on behalf
9 of Z-Tel.

10 I'd like to start by thanking the
11 Judges Stein and Brillling and the staff for
12 bringing us to this point right here. I visited
13 here and twice went back to Tampa and explained
14 to my officers that the chance for a settlement
15 and the work looked bleak at best, and I did not
16 think a settlement was possible.

17 I'm happy to say as a
18 prognosticator, I was incorrect. It's only been
19 through the effort of staff and judges that
20 we're able to sit here at this table today in
21 which we as a company are a principal.

22 Z-Tel supports the settlement.
23 Do we like everything that's in it? No. In an
24 ideal world, would we suggest changes to it?
25 Yes. Can we accept it as it is? Yes. The

1 primary thing, and it's in the testimony that we
2 filed, we think this brings to the CLECs
3 community certainty. It brings certainty around
4 rights. It brings certainty around viability.
5 It brings certainty around performance standards
6 and from the CLECs perspective, uncertainty is a
7 killer. You can't raise money in an uncertain
8 environment and you can't make plans in an
9 uncertain environment, but what this settlement
10 gives us is some closure. It allows us to stop
11 what at least we at Z-Tel believe as a CLEC, to
12 stop erosion of a customer base and affords us
13 an opportunity. It provides a floor from which
14 we can review it and, for that reason, we
15 believe the settlement is in our interests as
16 well as in the public interests.

17 The two years, which is the life
18 of this plan, is an eternity in the life of a
19 CLEC. CLECs are what are we going to do next?
20 Three months is long-term planning. So the two
21 -- two years that we get here is important to
22 us in terms of building the skill and scope
23 that's going to be necessary to be the
24 competitive force and the controller of Verizon
25 in terms of monopolistic actions that the

1 Commission is looking for here, and we think
2 that's an acceptable period for that to take
3 place and to reach that necessary skill scale
4 and scope.

5 Relative to that, there are a
6 couple of things that we would ask the
7 Commission in approving this agreement to do on
8 the public record and to say. The first one is
9 very simple, in that do we see the items at this
10 time as critical for us on a short-term basis,
11 and we would ask the Commission to set a
12 schedule line as to resolution to look forward
13 to, and we would suggest that to be 30 days. We
14 believe that if we were able to accomplish
15 what's been accomplished in the last 250 days
16 relative to an overall settlement, we should be
17 able to settle that refund issue within a 30-
18 day period.

19 Secondly, we would ask from a
20 broader perspective, ask the Commission to tell
21 us what they anticipate happening at the end of
22 the two-year period. We would like for the
23 Commission to publicly say that two years is a
24 long time and at the end of two years, there
25 will need to be an evaluation of what's taken

1 place in the market. There will need to be an
2 evaluation as to the state of competition, that
3 certain aspects of this plan are not going to
4 automatically sunset or go away, but the
5 Commission having taken the opportunity, to
6 allow the record to be built as to what the next
7 step of the competition ought to be in the state
8 of New York; and for the settlement itself, we
9 are supportive and we appreciate the opportunity
10 to step forward and say that.

11 MS. LEE: Thank you. The next
12 presentation Mr. Roland, from BridgeCom.

13 MR. ROLAND: Chairman Helmer and
14 Judge Lee: On behalf of BridgeCom International
15 we thank you for convening this proceeding and
16 giving us the opportunity to resolve these
17 issues.

18 BridgeCom joins in with every
19 other participant in this proceeding in
20 expressing deep thanks to Commission staff, to
21 the Administrative Law Judges for their work on
22 this, Judge Brillling particularly with respect
23 to BridgeCom. They and staff were willing to
24 listen to the concerns of smaller carriers, not
25 just the large ones, the huge dominant ones who

1 participated in the proceedings, but also the
2 smaller ones and many of the concerns, those
3 particularly of BridgeCom, were taken into
4 account, and the courtesy of the patience was
5 extraordinary, and for that BridgeCom is
6 extremely grateful.

7 A principal concern of BridgeCom
8 in connection with the next two years, of
9 course, is the well-being of the community and,
10 as we heard today or as I heard today, there
11 seems to be a difference of opinion between
12 Commission staff and the company as to the
13 extent of the availability of business UNE-P
14 outside the servicing offices in New York City.
15 The staff view is the view that BridgeCom has:
16 In the prefiling statement there was no
17 limitation in the number of business POTS lines
18 that would be served through UNE-P outside those
19 17 central offices, and that the FCC's three-
20 line limit in certain central offices in the top
21 15 SMSAs was not applicable because, as staff
22 indicated in the prefiling statement, it was a
23 one-way ratchet and competitors were entitled to
24 the more liberal standard either of the pre-
25 filing statement or of the FCC rules.

1 I heard the company say today
2 that nothing in this plan was intended to in any
3 way limit the availability of UNE-P under the
4 prefiling statement, that the only activity was
5 to increase the number; so, as we understand it,
6 there would be no limitation on business lines
7 outside those 17 in New York City, or 30 New
8 York City central offices, and within those
9 central offices the number was increased from
10 three up to the 18, and we ask the Commission to
11 confirm that in its order should it approve the
12 joint settlement agreement.

13 And then finally, we'd also note
14 that under some readings of the prefiling
15 statement at the end of the transition period
16 there could have been an entitlement to certain
17 rate increases, the beginning of the transition
18 rates from UNE-P rates up to wholesale discount
19 rates. The company today has said there will be
20 no rate increases for UNE-P during the terms of
21 the plan, so that, as we understand it, any
22 conditions in the prefiling statement as to the
23 availability of UNE-P, which someone might
24 interpret as depending upon the beginning of the
25 transition rates, would not be applicable to the

1 two-year term of this plan. We would also ask
2 the Commission to confirm that.

3 All that having been said,
4 BridgeCom endorses the settlement and asks the
5 Commission to approve it.

6 MS. LEE: Thank you. Before
7 turning to closing statements from Verizon and
8 staff, is there anyone else, any other parties
9 or members of the public, who would care to make
10 a statement at this time?

11 Sir? Could you come up and speak
12 into the microphone, please.

13 MR. THORNTON: My name is Lynn
14 Thornton. I'm on the staff of the New York
15 State Assembly. Assemblyman Richard Brodsky
16 asked me to come and reiterate what he said in a
17 letter to Judge Lee that was sent out last
18 week.

19 He is concerned with the haste in
20 which this Joint Proposal is going to decision.
21 He's not certain that the public has had an
22 opportunity to review, obviously, facts in the
23 public domain, and he's concerned with issues
24 such as no mention of anything like the former
25 infusion fund and cutback on Verizon's service

1 quality factors and the flexibility, the rate
2 flexibility, provisions of the settlement for
3 Verizon over the next two years and this is, as
4 you know, set forth in his letter from last
5 week. He asked me to come and underline this
6 and stress this during this hearing.

7 MS. LEE: Thank you.

8 Is there anyone else who would
9 care to make a statement at this time?

10 Hearing none, shall we turn to
11 Verizon and then staff.

12 MS. THORN: Good afternoon, Madam
13 Chairman. My name is Sandra DiIorio Thorn, and
14 I speak today on behalf of Verizon New York
15 Inc.

16 First let me echo my praise for
17 the hard work and dedication that Judges Stein
18 and Brilling have shown to this process without
19 which this settlement would not have been
20 accomplished. I thank them sincerely.

21 The Joint Proposal before the
22 Commission today that seeks approval of
23 Verizon's Incentive Plan is the product of long
24 and careful negotiations among Verizon, Staff,
25 representatives of the public interest and the

1 New York communications industry. The result of
2 that careful balancing process, as the record
3 demonstrates, is a plan that first and foremost
4 serves the public interest. The Joint Proposal
5 will do this by stimulating competition,
6 investment and innovation, while requiring
7 Verizon to maintain high quality service in the
8 New York local telecom market.

9 At the same time, the Joint
10 Proposal will allow Verizon to respond to the
11 competition that this Commission's pro-
12 competitive policies have already produced,
13 competition that will be heightened as a result
14 of the recent Commission decision in the UNE
15 case. In short, the Joint Proposal is a
16 careful, balanced step in the right direction
17 which is fully consistent with this Commission's
18 long standing policy of creating a
19 telecommunications market that is disciplined by
20 competitive forces and eliminating the
21 artificial constraints of regulation when they
22 are no longer necessary or productive.

23 The Plan, as you know, has three
24 central components: Pricing flexibility,
25 service quality commitments, and a transition to

1 GAAP accounting. In addition, as part of the
2 Joint Proposal, Verizon has agreed to several
3 items that can benefit chief competitors,
4 including the commitment to reduce the approved
5 price of hot cuts, to make UNE-P widely
6 available by expanding its availability to the
7 small business market, to implement a special
8 services process improvement program and to
9 participate in industry task forces designed to
10 enhance competition even further. In this
11 context, the competitive and regulatory
12 flexibility that the Plan creates for Verizon
13 New York is undeniably appropriate and indeed
14 necessary. Adopting the Joint Proposal is the
15 next appropriate step in the Commission's
16 efforts to transition New York from a regulated
17 telecommunications market to a fully competitive
18 one.

19 Let's first turn to the pricing
20 flexibility components of the Joint Proposal.
21 In the context of the increasingly competitive
22 telecommunications market in which Verizon is
23 operating and will operate in the future,
24 providing Verizon with the flexibility to adjust
25 prices as the market dictates simply makes

1 sense. Where competition exists, the Commission
2 has no need to attempt to discipline the prices
3 of any player through artificial regulatory
4 constraints. Market forces are a far more
5 effective and direct means of achieving that
6 result and meeting those ends. The Joint
7 Proposal, by removing unnecessary regulatory
8 constraints, will allow Verizon to compete more
9 effectively and will protect Verizon's
10 incentives to continue to be an aggressive
11 competitor. Pricing flexibility will also allow
12 Verizon to determine how best to recover its
13 costs and that will lead to an increased
14 interest by Verizon in expanding investment in
15 technology and ability in this state.

16 Finally, as Staff has noted in
17 its testimony, providing Verizon with pricing
18 flexibility is important because, if Verizon
19 adjusts its prices to a level more consistent
20 with cost, it will provide more correct price
21 signals to the market, which is critical if the
22 competitive market is to operate properly.

23 While some might suggest that any
24 plan that permits Verizon to potentially raise
25 rates is inherently for consumers and cannot

1 serve the public interest, this is not the
2 case. It is important to remember that, while
3 pricing flexibility may allow Verizon the
4 freedom to raise prices to some degree, the
5 public interest is well protected by this Joint
6 Proposal and the competitive marketplace.

7 The Plan limits the degree to
8 which Verizon can raise prices and has special
9 protections in place for both rural and Lifeline
10 customers. Their interests are entirely
11 protected; but aside from this, the marketplace
12 itself can be trusted to exert the appropriate
13 discipline. As Staff has recognized, the
14 Commission's order of January 28th in the UNE
15 decision has provided competitors with a wide
16 margin to cover their costs and to earn a
17 profit, while allowing them to provide
18 competitively priced services. In this market,
19 Verizon will undertake any price increase at its
20 own risk, and the competitors that can readily
21 undercut Verizon prices will be ready and
22 waiting to attract any customers who choose not
23 to pay Verizon's prices. Verizon will have to
24 increase its value proposition to its customers
25 through a judicious use of the pricing